STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a	)	
Ameren Illinois	)	
	)	ICC Docket No. 15-0142
Proposed General Increase in Gas	)	
Service Delivery Rates and Revisions to	)	
Other Terms and Conditions of Service	)	

EXCEPTIONS AND BRIEF ON EXCEPTIONS OF THE PEOPLE OF THE STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
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The People of the State of Illinois ("AG" or "the People"), by Lisa Madigan, Attorney General of the State of Illinois, pursuant to the schedule set by the Administrative Law Judge and Section 200.830 of the Illinois Commerce Commission's ("the Commission" or "ICC") Rules of Practice, 83 Ill. Admin. Code § 200.830, hereby file their Brief on Exceptions ("BOE") in this proceeding relating to the gas delivery service rate increase petition filed in January, 2015 under Section 9-201 of the Illinois Public Utilities Act (the "Act") by Ameren Illinois Company ("Ameren" or "AIC" or the "Company"). This AG Brief on Exceptions responds to the Administrative Law Judges' Proposed Order ("PO") issued on November 3, 2015.

Introduction

The Proposed Order approves a $45 million rate increase for Ameren's natural gas delivery service customers – handing the Company nearly all of its requested $52 million rate increase. In doing so, the Proposed Order rejects reasonable adjustments to the Company's forecasted level of operating expenses related to (1) Non-Union Salaries and Wages, (2) Incentive Compensation costs, (3) Pension-related costs and (4) various Gas Distribution and Transmission expenses – forecasts that the Company failed to support with substantial evidence.

In addition, the Proposed Order makes only a very modest adjustment to the highly inequitable straight fixed variable rate design that Ameren's residential customer base has lived with since 2008, when the Commission inexplicably raised the fixed, monthly customer charge to recover 80% of the Company's revenues through this flat charge. The Proposed Order reduces that level by only 10%, and authorizes a rate design that recovers 70% of revenues through the flat customer charge. Such SFV rates create inequitable cross-subsidies of the Company's highest users by the lowest users of natural gas. It also perpetuates a rate structure that is contrary to public policy goals of maximizing a customer's ability to engage in conservation and energy efficiency.

The Commission should correct these inequities and enter a Final Order consistent with the arguments and positions outlined below.

I. Exception No. 1: Accounts Payable for Gas Stored Underground

The Proposed Order would reject the People's proposal to treat the accounts payable for gas stored underground identically with the accounts payable for gas purchased for delivery to customers. The PO includes a finding that "neither the AG nor CUB/IIEC challenged the method or timing of the gas injections into storage, the payment lead applied to either flowing gas or gas stored underground, or AIC's assertion that service leads apply only to services and do not apply to goods." PO at 10. But, in fact, the People did challenge the idea that there is a distinction in the "service" or "good" character between the two types of purchased gas:

> [A]s Mr. Effron stated in his Rebuttal Testimony, there is no "definition of the term 'service' whereby gas purchased for delivery to customers is a service." Mr. Effron went on to note that "the delivery of the gas is a service, but the gas itself is a commodity, that is to say, a good." AG Ex. 4.0 at 4:72-75. As both gas delivered to customers and gas stored underground are goods,

> the same lead should apply to both types of purchased gas – whether delivered to customers or stored underground.

AG Init. Br. at 5-6. Thus, that portion of the Proposed Order mischaracterizes the People's position.

The Proposed Order's Commission Analysis & Conclusion section also states that the People's arguments "rely heavily on assertions concerning invoices and payment dates which appear to be related to the payment lead component of the expense lead, which AIC retained, rather than the service lead." PO at 10. But this proposed finding begs the question and is not supported by the record. If the terms of payment are identical (as Ameren never disputed) for both gas stored underground and flowing gas, then the same number of lead days – and thus the same accounts payable percentage – should apply to both. AG Ex. 1.0 at 11:227-12:251; AG Init. Br. at 5. Thus, the Commission should adopt Mr. Effron's proposal to use the same number of lead days, resulting in an accounts payable percentage of 10.58%, for gas stored underground as what the Company is using for gas purchased for delivery to customers, as outlined in the People's Initial Brief at 4-7.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at page10 of the Proposed Order should be stricken and replaced with the following language:

> <u>The Commission finds that because Ameren by its own admission has the same payment terms for gas delivered to customers and gas stored underground, the appropriate expense leads for the two types of gas should be identical. Thus, the Commission adopts the AG's proposal to use an accounts payable percentage of 10.58% for Ameren's materials and supplies for gas stored underground, entailing a value of $7.533 million for the</u>

related accounts payable, an adjustment of $2.965 million from Ameren's proposed rate base.

II. Exception No. 2: Non-Union Salaries and Wages

In Schedule G-5 of its rate case filing, the Company disclosed that for the years 2015 and 2016, it had projected non-union salary and wage increases of 3% and 4%, respectively. In comparison, union wages were forecasted to increase at an annual rate of 2.5% based on existing labor contracts. AG Ex. 2.0 REV at 7:108-111. In response to discovery, the Company provided salary and wage information for the four years 2011 to 2014. This information shows that non-union, base salaries and wages have increased at an annual rate between 4.03% and 4.18%, the AG points out. These percentages reflect, primarily, annual merit increases and other base-pay adjustments, such as market pay adjustments, promotions and job reclassifications. *Id.* at 7:111-115.

AG witness Coppola observed that this annual rate of increase is quite significant, amounting to an increase of more than 26% in base pay over the six-year period from 2011 to 2016. This rate of non-union forecast wage increases is particularly excessive when assessed within the lens of stagnant wage growth in the economy generally, and lower household income experienced by Illinois residents over the past few years, he testified. According to the U.S. Census Bureau, for example, median household income in Illinois has been relatively stagnant at about $56,000 during the 2010 to 2013 period and is down from over $60,000 in 2008. In contrast, AIC has granted annual base pay increases in excess of 4%, the AG points out. AG Ex. 2.0 REV at 7:116-122.

Given these facts, the AG proposed that a 2% increase, which is in line with historical wage increases during the past three years, be assumed for purposes of the test year forecast. This rate of wage increase is approximately half the rate forecasted by the Company. *Id.* at 7-8:125-127. The adjustment results in a reduction of approximately $1.6 million to O&M expense and $0.8 million to capitalized costs, as shown on AG Ex. 2.4.

The Proposed Order rejects the AG proposal, stating that "The Commission believes AIC's forecast is accurate and reliable, and the forecasted non-union salary and wage increases will help facilitate AIC's ability to continue to attract and retain the talented employees that it needs to provide adequate, efficient, reliable, safe, and least-cost gas service to Illinois customers." PO at 36. The Proposed Order cites historical pay increases that the Company awarded over the last four years as evidence in support of its conclusion.

This rationale rings hollow, however. The fact that Ameren has awarded non-union employees increases that are double the rate documented by the Bureau of Labor Statistics within the U.S. Department of Labor, as reported by *IHS Economics*, does not support continuing that trend. *See* AIC Ex. 31.0 at 12:233-241. Such criteria would put the Commission in a position of rubber-stamping any pay practices the Company deems appropriate to its self-interest. AG Ex. 5.0 at 3:55-58.

In addition, it appears that the Proposed Order appears to confuse the concept of historical average wage increases with *wage inflation*, as revealed by the statement, "The AG has not explained why it is appropriate to align AIC's future non-union wage increases with historical national wage inflation." PO at 36. To be clear, the AG's recommendation is based on expert witness Sebastian Coppola's reliance on data from *IHS Economics*, a well-known and respected publisher of historical and forecasted economic data sourced from government agencies, surveys and research. Their clients span the globe and their published information is used by corporations, including utilities, for inclusion in internal cost and revenue projections and to guide business decisions. AG Ex. 5.0 at 7-8:137-161. The Proposed Order's reference to "wage inflation" as something different than this data confuses the point.

In fact, as AIC witness Langenhorst herself pointed out, the Employment Cost Index is an index as a quarterly and annual tracker of changes to the cost of labor, including wages, fringe benefits and bonuses. The underlying information is published by the Bureau of Labor Statistics within the U.S. Department of Labor. AIC Ex. 31.0 at 12:233-241. It reflects changes in total compensation which, as Mr. Coppola pointed out, is more generous to the Company in the context of forming a basis for reasonable *base pay* increases because it also includes other, additional forms of compensation.

The Proposed Order further provides, "The AG also has failed to address the potential impact of its 2% cap on gas customers—that is, the impact on AIC's ability to attract and retain the skilled and experienced workforce it needs to serve its gas customers." *Id.* at 36. This argument misses the mark, however. This conclusion, rooted in Ameren's claim that the company needs to offer 4% annual salary increases to attract and retain quality employees was never proven with any kind of evidence. For example, in response to AG witness Sebastian Coppola's proposed adjustment, Ameren discussed the market surveys used by AIC as a basis for it proposed non-union pay increase. AIC Ex. 31.0 at 4-5:70-77. When the People asked the Company to provide a copy of the surveys to determine who the participating companies were, how the information was compiled, and when, the Company argued that it could not provide the information, claiming confidentiality and proprietary restrictions. This hardly constitutes an excuse for non-disclosure, given the existence of a protective order in this docket. AG Ex. 3.0 at 4-5:81-85.

While allegedly relying on the market surveys for purposes of its wage forecast, the Company made no effort to determine whether the reported increases had actually occurred. For example, when asked in discovery whether it had determined what the actual salary and wage increases had been for those companies in the market surveys for each year, 2011 to 2014, Ameren reported in its response that that information was not reported in the surveys. *Id.* at 4-5:86-95; *See* AG Ex. 5.1 (Coppola Rebuttal). Mr. Coppola observed that having actual data from these companies is important since it would validate whether or not projections of what the companies might pay in the future actually came to pass. AG Ex. 5.0 at 5:86-95. On the other hand, the Employment Cost Index-Total Compensation, which forms the basis of the AG-recommended non-union wage adjustment, reflects the actual total pay increases -- not expectations.

Finally, the Proposed Order states that "it is not unusual that AIC employees are eligible for both merit pay increases and incentive compensation. It is consistent with the Commission's past practice to allow recovery of both." PO at 36. But this point ignores the fact that the 2% factor applied in the AG's recommended adjustment reflects changes in total compensation which, as Mr. Coppola pointed out, is more generous to the Company in the context of forming a basis for reasonable *base pay* increases because it also includes other, additional forms of compensation. AG Ex. 5.0 at 7-8:144-153.

As the People noted in their Initial and Reply briefs, the task of the Commission is to set rates that reflect a reasonable level of salary and wages expense, *keeping in mind its obligation to ensure that rates are affordable and that this essential service is least cost*. The Commission is not obligated to continue an inflated rate of wage increase for the company's non-union employee base by blessing the use of merit increase surveys as a basis for setting forecasted wage rates, as the Company's position and the Proposed Order suggest. Using a reliable labor cost factor such as the Employment Cost Index is a reasonable, fact-based approach to setting base wage expense. This is similar to adjusting other O&M expenses based on the Consumer Price Index or other inflation index. *Id.* at 8:154-161.

For all of these reasons, the Commission's final order should reflect the AG's proposed adjustment to Non-Union Salaries and Wages.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 35-36 of the Proposed Order should be stricken and replaced with the following language:

> The issue presented for the Commission is whether the recovery in monopoly service utility rates of this rate of non-union forecast wage increases is reasonable -- particularly when assessed within the lens of stagnant wage growth in the economy generally, and lower household income experienced by Illinois residents over the past few years. As noted in the AG Initial Brief, the U.S. Census Bureau reports that median household income in Illinois has been relatively stagnant at about $56,000 during the 2010 to 2013 period, and is down from over $60,000 in 2008. In contrast, AIC has granted annual base pay increases in excess of 4%. AG Ex. 2.0 REV at 7:116-122.
>
> The Public Utilities Act provides the legal framework for assessing this expense. The Act makes multiple references to the mandate that utility rates be least-cost. Section 1-102 of the Act states that "the General Assembly finds that the health, welfare and prosperity of all Illinois citizens require the provision of adequate, efficient, reliable, environmentally safe and least-cost public utility services at prices which accurately reflect the long-term cost of such services and which are equitable to all citizens." 220 ILCS 5-102. The General Assembly further defined "efficiency" as "the provision of reliable energy services at the least possible cost to the citizens of the State". 220 ILCS 5/1-102(a).

> In addition, Section 8-401 requires every public utility subject to the Act to provide service and facilities which are in all respects adequate, efficient, reliable and environmentally safe and which, consistent with these obligations, constitute the least-cost means of meeting the utility's service obligations. 220 ILCS 5/8-401. It is with these provisions of the Act in mind that the Commission must assess the Company's request to recover the requested forecasted non-union salary amounts.
>
> The Company asks the Commission to require ratepayers to fund 4% annual pay increases for non-union employees indefinitely – a level that is not sustainable in least cost rates and out of step with the wage adjustments that Ameren's customers as a whole are experiencing. Ameren's customers are the same families who have not seen their household income keep up with inflationary increases in their cost of living, as noted above. While the Company raises the specter of losing talented people or of being unable to attract new employees unless it receives the full requested 4% annual increase in base pay, Ameren cannot document such a claim. Mr. Coppola's proposed 2% base pay increase factor would adequately reflect wage inflation and keep non-union wage rates at par with others in the labor force, and is hereby adopted for purposes of setting rates.

III. Exception No. 3: Incentive Compensation Costs

The Proposed Order would reject the People's disallowance proposal for incentive compensation cost, as outlined at pages 25-33 of their Initial Brief; instead, it would have the Commission allow all of Ameren's recovery request. PO at 44-46. The Proposed Order's Commission Analysis and Conclusion is based on an incorrect understanding of the evidentiary record in this case as well as Ameren's burden under Section 9-201 of the Act. For those reasons, it should be revisited in the Commission's final Order.

The lynchpin of the Proposed Order's conclusion appears to be the following finding: "[e]ach of AIC's KPIs appear to promote and measure the achievement of operational goals related to safety, reliability, customer satisfaction, budget controls, and efficiency and productivity. AIC Ex. 28.1." PO at 44. But a close examination[1] of Ameren's Exhibit 28.1, attached to this Brief on Exceptions as **Appendix A** (together with Exhibit 28.2, which provides more detail on the dollar amounts of expenditure associated with each KPI), shows that many of Ameren's KPIs (Key Performance Indicators) are in fact *not* tied to the achievement of operational goals that benefit gas customers. To pick a non-exhaustive few examples:

- Three KPIs on page 1 and two on page 3 relate to budget controls – but due to the structure of utility ratemaking in the ICC, actual realized costs do not necessarily increase customer rates. If Ameren imprudently allowed costs to rise one year, the Commission likely would not use that as a basis to raise customer rates in the next rate case.
- Several KPIs on page 2 relate to compliance with applicable regulations and timeliness of regulatory filings, but customers should not have to pay extra to motivate Ameren employees to follow existing legal requirements.
- Similarly, three KPIs on page 3 relate to "minimizing the amount of taxes that are included in [] rates," which purportedly "benefits customers," but the Commission sets customer rates simply by using prevailing state and federal tax rates to calculate the amount of revenue required to achieve a given amount of net income in a putative test-year calculation – not by looking at the actual experience of taxes paid or not paid by Ameren.
- "Leadership development" on page 4 does not describe the measurable metrics that Ameren human resources employees must meet to adequately develop leaders and earn their incentive pay; nor does it specifically tie good leadership to any customer benefits.
- The "Technology (HR)" KPI on page 4 does not explain how better internal communication with the Company's Human Resources department will help Ameren's segment business leaders "better serve the customers of the segment."
- The "Customer Satisfaction – Improved communication through media" KPI on page 4 is based on achieving more positive and less negative coverage of Ameren in media, but it is not clear how customers benefit from more glowing coverage.
- Two KPIs on pages 4 and 5 are based on increasing the "Likes" or "followers" of Ameren Corporation on Facebook and Twitter, respectively – but these endorsements by internet users could be from Ameren Corporation's Missouri customers – or even from parts of the country (or globe) outside Ameren Corporation's service territories.

[1] Some of this analysis was discussed in the People's Initial Brief at 30.

It should be clear, then, that many of the KPIs shown in Ameren's Exhibit 28.1 do not necessarily benefit AIC customers, and, on the existing record, the Commission cannot enter an order finding otherwise.

The Proposed Order then acknowledges its conclusion in Docket Nos. 09-0306 *et al.* (cons.) that "the Commission requires a finding that incentive compensation programs are beneficial to ratepayers before they can be reflected in rates. . . . If no net benefit is realized by ratepayers upon the attainment of the plan goal, there is no reason for ratepayers to contribute funds encouraging [Ameren's] employees to reach that goal." PO at 45 (quoting Order, Docket Nos. 09-306 *et al*. (cons.), May 6, 2010, at 83). The Proposed Order, however, appears to disavow somewhat this past doctrine, stating that "the Commission continues to believe that such an analysis is not a prerequisite to incentive compensation cost recovery" and that the "burden and cost" of cost-benefit analysis would outweigh its value. PO at 45. Firstly, the word "continues" is not appropriate where the putative Conclusion language would make such a sharp break from past Commission practice. If the Commission wishes to disavow its past position, a step that the People do not agree with, it cannot use the phrase "continues to believe." Second, the apparent new Commission policy for Section 9-201 rate cases that the PO would establish –

> It is the Commission's position that if the record evidence shows that incentive compensation costs requested for recovery through rates are prudent, reasonable, and based on the achievement of operational metrics that can reasonably be expected to provide overall benefits to customers, then those incentive compensation costs should be recoverable

(PO at 45) – would apparently evaluate "overall benefit" without attempting to quantify the benefits. The People submit that if Ameren wishes to recover millions of dollars every year in incentive compensation costs, it should be able to perform some evaluation of the quantified benefits of its incentive compensation programs; it is not clear why it should not bear that "burden," given its obligation to justify the justness and reasonableness of its costs under Section 9-201 of the Act. For that reason, the People take exception to this apparent new policy that the Proposed Order would affect.

The Proposed Order then states that "the Commission has approved incentive compensation cost recovery for AIC related to the same incentive pay plans and the same or substantially similar KPIs in all of AIC's gas and electric cases since 2011." PO at 46. But Commission decisions are not *res judicata*. *Commonwealth Edison Co. v. Illinois Commerce Comm'n,* 405 Ill.App.3d 389, 407 (2010). In this matter, the Commission should look anew at Ameren's incentive compensation programs if an intervenor presents new arguments or highlights evidentiary details of the programs not previously considered. The analysis of Ameren's KPIs discussed above, together with the analysis made by AG witness Coppola in his Direct Testimony and Rebuttal Testimony, AG Exs. 2.0 REV at 10-19 and 5.0 at 20-29, should cause the Commission to consider disallowing part of Ameren's requested cost recovery in this area.

The Proposed Order also states that the People "fail[ed] to provide a sufficient description of its preferred metrics" for incentive compensation. PO at 44. But an intervening party objecting to recovery of a particular cost is not responsible to suggest an alternate mode of expenditure that *would* be recoverable. There is no legal requirement that Ameren have any incentive compensation program for its gas distribution service employees. If Ameren wishes to establish an incentive compensation program and recover the costs thereof, it must establish the justness and reasonableness of those costs under Section 9-201 of the Act. "Requiring intervenors to establish unreasonableness is therefore no substitute for requiring proof of reasonableness." *People ex rel. Hartigan v. Illinois Commerce Comm'n*, 117 Ill.2d 120, 135 (1987). Thus, the quoted statement from the Proposed Order fails to correctly reflect the legal obligations of intervening objectors and should not be included in the Commission's final Order.

In summary, the Commission should adopt the expense disallowance proposal outlined in the People's Initial Brief at 25-33.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 44-46 of the Proposed Order should be stricken and replaced with the following language:

> The Commission's standard for recovery of incentive compensation has long been based on a showing of net benefit to customers stemming from the incentive pay programs. While the Commission has approved Ameren's very similar incentive pay programs in prior gas and electric rate cases, the objections raised by the AG are worth examining.
>
> As the AG showed, Ameren's own evidence listing its Key Performance Indicators ("KPIs") shows numerous KPIs that are not obviously linked to customer benefit, such as completing tax forms on time or reducing spending in between rate cases, or KPIs that incentivize goals that the Company should be doing anyway, such as complying with government regulations. Programs like "leadership development" seem nebulous and it is not clear from the record whether that development leads to actual improvement in Company performance in any way that benefits customers. More importantly, as the AG showed, many of Ameren's incentive pay KPIs have apparently not been effective in reducing O&M spending, because that spending has risen by 5.9% annually over the past four years.
>
> The Commission urges Ameren to develop incentive pay programs, if it wants recovery for their cost, that include more KPIs clearly linked to direct customer benefits, rather than to goals that benefit shareholders in whole or in part. The Commission also urges Ameren to benchmark more of the metrics in those KPIs against the best performance in the utility industry, so that Ameren's customers will receive superior and attainable service

> quality. As the AG showed, very few of Ameren's KPIs are so measured against external benchmarks.
>
> For the reasons described above, the Commission adopts the disallowance proposal of the AG. Ameren will be allowed $2.043 million of recovery in the test year in this spending category.

IV. Exception No. 4: Qualified Pension and Other Post-Employment Benefit Costs

On the issue of Qualified Pension and Other Post-Employment Benefit costs, the Proposed Order rejects the AG's reasonable adjustment to AIC's 2016 forecast of this expense, which is based on actual data provided by the Company in response to discovery that reveals a precipitous drop in this expense level for the period of time rates are expected to be in effect. In doing so, the Proposed Order states, "The record shows that AIC has calculated this expense based on an actuarial forecast as it has before in prior cases. The Commission understands that these calculations were audited by a third party to ensure compliance with accounting standards." PO at 55. The Proposed Order also implies that the AG's proposed adjustment, which reduces O&M expense by $4.1 million and capital additions by $2.8 million, is based on some kind of allegation of improper accounting for historical asset gains, noting that "the AG failed to provide any evidence that AIC altered the calculation methodology in this case." *Id.* The AG makes no such accusation.

To be clear, the AG's O&M adjustment is based on the Company's responses to multiple data requests on this matter, which ultimately provided schedules derived from actuarial reports that show that subsequent to 2016, pension and OPEB costs *decline significantly* for both AIC and AMS. AG Ex. 2.0 at 20:368-374.

Those amounts, which are included in the Confidential version of the AG's Initial Brief, show that pension costs for AMS employees drop significantly from the current levels to $16.1 million in 2016 to about half this amount in 2017 through 2019. Pension costs for AIC employees also drop significantly over this same time period. OPEB costs for AIC fall even more dramatically. AG Ex. 2.0 REV at 20:375-381. The schedules showing these numbers provided in response to data requests are included in AG Exhibit 2.9 (CONFIDENTIAL). The result, as calculated in AG 2.10 REV, is an actual forecasted significant *reduction* in pension and OPEB expense over the 2017-2019 time period, as compared to the increased forecasted amounts AIC requests for the test year revenue requirement. *See* AG Ex. 2.10 REV.

AG Exhibit 2.10 REV calculates the specific adjustments to pension and OPEB O&M costs for the 2016 test year based on the changes discussed above. The result is a reduction of $4.1 million to O&M expense and $2.8 million for capital additions. It is supported by the Company's own data – not an unproven allegation of inappropriate accounting.

In addition, the Proposed Order mistakenly concludes that the AG-proposed adjustment, if adopted, would constitute unlawful single-issue ratemaking and the Commission's test year rules "since it entails replacing AIC's 2016 forecasted amount of pension and OPEB costs with an amount based on an estimate of pension and OPEB costs in years after the 2016 test year." PO at 55-56. This conclusion is wrong. Mr. Coppola's proposed adjustment examines the reasonableness of one expense based on limited factual data provided by the Company that reveals that the Company's inordinately high level of pension expense amount for the test year *forecast* is inflated. It is not, as those citations reference, an attempt to mismatch expenses and revenues so as to over- or under-state a utility's revenue requirement, as the rule against single-issue ratemaking prohibits. To the contrary, it is an attempt to normalize the expense for the period rates will be in effect – a basic accounting precept and requirement of any attempt to set just and reasonable rates.

This single-issue ratemaking claim is based on the Company's argument that Mr. Coppola failed to examine 2017-2019 occurrences for other expense items, and therefore created a single-issue ratemaking exception. AIC IB at 51. But that analogy to the single-issue ratemaking prohibition is inapt. Mr. Coppola made this adjustment because, given the extraordinary drop in pension/OPEB expense level, as presented in Company data, compared with the amount forecasted for the test year, an adjustment was in order to ensure that customers are not paying inflated rates during the period rates are in effect. It is a question of simply normalizing this particular expense for the period of time rates are in effect – a concept completely consistent with the Commission's test year rules and utility ratemaking.

For all of these reasons, the Proposed Order's conclusion on this expense amount should be rejected.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 55-56 of the Proposed Order should be stricken and replaced with the following language:

> Ameren is proposing to recover in the forecasted test year, $8,422,898 of AIC and AMS pension costs and $647,915 of AIC and AMS OPEB expense, also referred as FAS 106 expense, for recovery in gas rates. These amounts represent an allocation to the gas business of the total Company's 2016 pension and OPEB costs of $32.5 million and $2.5 million, respectively. However, in response to multiple data requests on this matter, the Company ultimately provided schedules derived from actuarial reports which show that subsequent to 2016, pension and OPEB costs *decline*

> *significantly for both AIC and AMS*, as shown at AG Ex. 2.0 at 20:368-374 and in AG Ex. 2.9. At issue is whether the AIC forecasted 2016 expense amounts are reasonable in light of the documented forecasted reductions in these expenses immediately following the 2016 test year – the period of time rates will be in effect.
>
> The evidence shows that the AG made repeated requests for the Company to explain this anomaly between the test year forecast and the Company's own forecasted immediate future, the Company failed to detail the reasons for the significant decline in these costs after 2016, other than to state that "…the plan is in the process of recognizing historical asset gains into the calculation of expense. This is a factor which helps drive the 2017 expense to be lower than the 2016 expense." AG Ex. 2.0 REV at 20-21:382-385. That explanation fails to satisfy the Company's burden of proof under Section 9-201 of the Public Utilities Act. 220 ILCS 5/9-201. In short, Ameren's proposed 2016 forecast of these expenses asks ratepayers to finance expense levels that the evidence shows will not exist according to Ameren's own forecasts.

V. Exception No. 5: Non-Qualified Pension Costs

The AG proposed a reasonable adjustment of $176,492 to Non-Qualified Pension Costs based on AG witness Coppolla's analysis of the forecasted expense, which consists of retirement costs for Company executives that receive retirement benefits in excess of the limitation imposed by the Internal Revenue Code ("IRC") for deduction of the related expense in the tax return. Non-qualified retirement plans apply to only a few highly paid executives and many regulatory commissions do not allow recovery of cost related to such plans. AG Ex. 2.0 REV at 22:418-425.

In doing so, the Proposed Order cites to Docket No. 91-0586, where in the Commission stated the following:

> The issue before the Commission is this: whether the IRS' standards as to whether an expense is deductible should be adopted by the Commission in determining whether an expense should be included in a utility's revenue requirement calculation. The answer is no. The effect of accepting Staff's adjustment is that the Commission would be ruling that the employees covered by this plan are overcompensated. There is no evidence to this effect in the record. The Federal policy for making certain pension plans non-deductible is to encourage employers to include as many employees as possible in their plans. It is not the Commission's place or purpose to evaluate Respondent's expenses using the IRS' policies.

Peoples Gas Light & Coke Co., Docket No. 91-0586, 1992 Ill. PUC LEXIS 376 at *66-68 (Oct. 6, 1992). PO at 59-60. The Proposed Order states that this reasoning, from the 1991 case, to still be applicable here, and calls the Company's request for this expense amount "reasonable." *Id.*

The Commission should reject that reasoning. The concept of public regulation requires that the Commission have power to deal freely with each situation that comes before it, regardless of how it may have dealt with a similar or even the same situation in a previous proceeding. *Mississippi River Fuel Corp. v. Illinois Commerce Comm'n,* 1 ILL.2d 509, 513 (1953). Illinois courts have consistently held that "decisions of the Commission are not *res judicata*." *Commonwealth Edison Co. v. Illinois Commerce Comm'n,* 405 Ill.App.3d 389, 407 (2010). Moreover, requiring intervenors (or Staff) to establish unreasonableness if no substitute for requiring proof of reasonableness. *People ex rel. Hartigan v. Illinois Commerce Comm'n,* 117 Ill.2d 120, 135-136 (1987).

Rather than support their request for rate inclusion of this expense, the Company provided data that shows that a relatively small group of highly-paid executives participate in the non-qualified benefit plans. The Company responses, which are also included in AG Exhibit 5.5, provided the following information:

> 1. At AIC, 43 employees participate in the Ameren Corporation Deferred Compensation Plan and the Supplemental Retirement Plan. At AMS, 85 employees participate in the plan.
> 2. The employees that typically participate in these plans are Presidents, Senior Vice Presidents, Vice Presidents, Senior Directors, Directors and Controllers.
> 3. The compensation threshold that triggers participation in the plans is either $210,000 or $265,000 depending on which section of the IRC is applicable.

AG Ex. 5.0 at 13:252-258. As a point of comparison, the total AIC employee base was 4,562 as of the end of September of 2014. The payment of these costs should not be recovered in rates for an essential service, as they provide no discernible benefit to ratepayers – at least not one described or provided by Ameren.

The Public Utilities Act makes multiple references to the mandate that utility rates be least-cost. Section 1-102 of the Act states that "the General Assembly finds that the health, welfare and prosperity of all Illinois citizens require the provision of adequate, efficient, reliable, environmentally safe and least-cost public utility services at prices which accurately reflect the long-term cost of such services and which are equitable to all citizens." 220 ILCS 51-102. The General Assembly further defined "efficiency" as "the provision of reliable energy services at the least possible cost to the citizens of the State". 220 ILCS 5/1-102(a).

In addition, Section 8-401 requires every public utility subject to the Act to provide service and facilities which are in all respects adequate, efficient, reliable and environmentally safe and which, consistent with these obligations, constitute the least-cost means of meeting the utility's service obligations. 220 ILCS 5/8-401. It is with these provisions of the Act in mind that the Commission must assess the Company's request to recover in rates excessive executive pension amounts for a few highly paid executives. The People urge the Commission to reassess the Proposed Order's finding on this point and adopt the AG-proposed adjustment.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 59-60 of the Proposed Order should be stricken and replaced with the following language:

> The Company has the burden under Section 9-201 of the Act to prove the justness and reasonableness of the expense amounts it requests be recovered in rates. The Public Utilities Act makes multiple references to the mandate that utility rates be least-cost. Section 1-102 of the Act states that "the General Assembly finds that the health, welfare and prosperity of all Illinois citizens require the provision of adequate, efficient, reliable, environmentally safe and least-cost public utility services at prices which accurately reflect the long-term cost of such services and which are equitable to all citizens." 220 ILCS 51-102. The General Assembly further defined "efficiency" as "the provision of reliable energy services at the least possible cost to the citizens of the State". 220 ILCS 5/1-102(a).
>
> In addition, Section 8-401 requires every public utility subject to the Act to provide service and facilities which are in all respects adequate, efficient, reliable and environmentally safe and which, consistent with these obligations, constitute the least-cost means of meeting the utility's service obligations. 220 ILCS 5/8-401. It is with these provisions of the Act in mind that the Commission must assess the Company's request to recover in rates excessive executive compensation amounts in Ameren customer rates.
>
> The Company's request for rate recovery of $176,492 for Non-Qualified Pension Plan Administration belies these statutory goals. No Company witnesses presented evidence to justify this cost or, for that matter, any of the components of the $23.2 million in employee benefits proposed by the Company for inclusion in rates, the AG points out. The non-qualified retirement plans typically include retirement costs for Company executives that receive retirement benefits in excess of the limitation imposed by the Internal Revenue Code ("IRC") for deduction of the related expense in the tax return. Non-qualified retirement plans apply to

> only a few highly paid executives and many regulatory commissions do not allow recovery of cost related to such plans. AG Ex. 2.0 REV at 22:418-425.
>
> The Commission notes that the IRC limitations were enacted because legislators wanted to limit the cost to taxpayers of benefits which applied to only a limited number of high-income executives. Employers understand that premise but have continued to offer these benefits since they see that they allegedly provide value to their executive employees. *Id.* at 23:429-432.
>
> The fact that these particular benefits provide value to the executive employees who receive them does not mean that the cost of these benefit plans should be paid by customers. Despite the usual argument by Company management that these costs are legitimate business costs for retirement programs typically offered to executive management by many corporations, the payment of these costs should not be recovered in rates for an essential service, as they provide no discernible benefit to ratepayers. As the AG points out, there are other utility expense examples, such as lobbying and corporate advertising expenses, which are beneficial to the Company, but are not expenses usually fully recoverable in rates. AG Ex. 2.0 REV at 23:433-436. The bottom line is that customers (like taxpayers) should not pay for costs that benefit only a select few highly-paid employees of the Company. Mr. Coppola's proposed adjustment to remove this expense from the Company's revenue requirement is hereby adopted.

VI. Exception No. 6: Sewer Cross-Bore Inspection Expenses

In the sewer cross bore expense category, where Ameren requests $957,000 for the 2016 test year and the People recommended allowing recovery at the forecasted 2015 spending level of $758,000, the Proposed Order's Commission Analysis and Conclusion section states, in part:

> AIC says that it is asking the Commission to recognize the risk that sewer cross bores pose to the public and the integrity of the distribution system, the necessity of the inspections, and the extent of the facilities potentially affected. Based on AIC's inspections and service repairs to date, AIC states that it believes that the increase is necessary and reasonable, so that the Company can locate and remediate additional cross bores and eliminate the potential of a more serious incident. The Commission agrees with AIC's assessment of the evidence in the record and is of the

> opinion that the increase in inspections and related expense is justified.
>
> The Commission also finds that AIC has provided ample evidence in support of its inspection program for the test year. On the basis of the test year plan as outlined in the record, the Commission finds that the test year expense for sewer cross bore inspections is prudent and reasonable. With its next rate case, the Company is directed to provide a plan for performing these inspections going forward.

PO at 67-68.

Ameren's only support for its 2016 spending level appears to be a forecasted increase in inspections from 2,888 in 2015 (which was itself a forecast, up from 1,787 in 2014) to 4,089 in 2016. AIC Ex. 38.0 at 10:213; AIC Ex. 38.2. AIC witness Colyer's justification for this increase is his statement that the Company "has been gradually increasing the number of inspections since 2013, and plans to increase the number of inspections again in the test year." AIC Ex. 38.0 at 9:191-192. He terms the increase[2] in test-year spending "modest." *Id.* at 9:194. He also states that the planned 2016 expense level is "the minimum level of expense that the Company projects that it will incur" on this activity in 2016 and future years. However, he does not explain why 4,089 annual inspections or $958,000 of spending on this maintenance activity is the appropriate and necessary number to provide safe, reliable, and adequate service. Why not inspect 3,500 laterals or 4,500? Why not double or triple expenditure instead of increasing it by 26%? *See* AG Reply Br. at 33. Apparently, 2016 inspections will cover the territory of Division 2 (Quincy) (AIC Ex. 38.0 at 10:212; AIC Ex. 38.2), but Mr. Colyer has not explained in any way why Division 2 requires that many inspections, or why all of Division 2 must be inspected in 2016.

[2] It is not clear from Mr. Colyer's testimony whether he is referring to the 41.6% increase in inspections from 2015 to 2016 or the 128.8% increase from 2014 to 2016.

Thus, Mr. Colyer does not give the Commission a clear basis, other than his word, for concluding that 4,089 inspections and $958,000 are the just and reasonable numbers – and so the Commission cannot find that Ameren has provided "ample evidence" for its 2016 sewer cross-bore inspection activities. The People do not dispute the need for increased inspections, but only observe that Ameren has not justified the specific number it proffers. "Requiring intervenors to establish unreasonableness is therefore no substitute for requiring proof of reasonableness." *People ex rel. Hartigan v. Illinois Commerce Comm'n*, 117 Ill.2d 120, 135 (1987).

Ameren admits that it has not proposed any long-term inspection program (AIC Ex. 38.0 at 11:230-231), and the PO's Commission Analysis and Conclusion section recognizes this deficiency, directing Ameren to provide a long-term plan in its next gas rate filing. PO at 68. But this logic should be extended further. The Commission has recently seen the dangers of authorizing a utility to collect money for a novel program without a clear long-term plan.[3] Without an understanding of how the Company's proposed 2016 activities fit into a long-term plan, the Commission cannot find that the 2016 activities are just and reasonable.

For these reasons, the Commission should adopt AG witness Coppola's recovery proposal stated at pages 48-49 of the People's Initial Brief.

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[3] The Accelerated Main Replacement Program ("AMRP") approved in 2010 for The Peoples Gas Light & Coke Company ("Peoples Gas") in Docket Nos. 09-0166/0167 (cons.), with monthly rider recovery authorized through Section 9-220.3 of the Public Utilities Act and Part 556 of the Commission's Rules, both enacted in 2013, was recently audited by The Liberty Consulting Group pursuant to a 2013 Commission order in Docket Nos. 12-0511/0512 (cons.).

The audit report released in May 2015 found that for the AMRP, "[t]op-level oversight did not appear to operate under a regular, consistent schedule, or require or use key performance metrics." Moreover, "Peoples Gas does not place a high priority on developing and maintaining a strong cost management culture. This lack of priority inevitably causes cost management capabilities to fall short." The Liberty Consulting Group, *Final Report on Phase One of an Investigation of Peoples Gas Light & Coke Company's AMRP*, May 5, 2015, at B-14, L-10, available at:
http://www.icc.illinois.gov/downloads/public/FinalReportTheLibertyConsultingGroupPhaseOneAMRP.pdf.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 67-68 of the Proposed Order should be stricken and replaced with the following language:

> The Commission agrees with the AG that the Company has not presented a specific justification for its projected 26% increase of expenditure in 2016 compared to the previous year. Additionally, the Commission finds that the Company has not presented a comprehensive long-term plan for the sewer cross-bore inspection program. The justness and reasonableness of a test-year expenditure must be assessed, in part, within the context of whether it fits into any long-term plan for maintenance. For these reasons, the Commission adopts the AG proposal to allow recovery at the 2015 expenditure level, $758,000.

VII. Exception No. 7: Gas Technology Institute Operations Technology Development Expense

The Proposed Order would allow Ameren to recover a $480,000 expense for the 2016 test year, representing the membership fee of joining the Gas Technology Institute ("GTI") industry organization. The PO would justify this decision by stating that "[t]he Commission finds in the record examples of ongoing GTI OTD projects that are immediately available and would offer benefits to AIC and its ratepayers once the Company joins, such as research and development. The AG does not explicitly disagree with the purported benefits, but rather seems to argue that the Company should wait to recover the membership costs." PO at 79. But the People took the position in their Reply Brief at 38 that "Ameren should wait to ask for expense recovery until after it actually has some experience of membership" not as a categorical imperative, but only *because* the benefits of membership have not been established at this time. Moreover, the People argued clearly in their Initial Brief at 53 and Reply Brief at 38-39 that the purported benefits have not been supported by adequate evidence.

Although Company witness Colyer described various purported benefits that, he claims, would flow from GTI membership (AIC Ex. 22.0 (2d Rev.) at 46-48; Ameren Ex. 38.0 at 28-29), he admitted during cross-examination that he has not surveyed any other utilities to learn any *actual* benefits that they may have enjoyed from GTI membership. Tr. at 118:11-119:2. Thus, the purported benefits are at best only theoretical, apparently gleaned from GTI marketing documents. This is a thin reed on which to hang a half-million dollars of ratepayer money. For this reason, the Commission's order cannot find that the record contains any reasonably supported examples of GTI projects that would "offer benefits" to Ameren and its ratepayers. The Commission should instead adopt the recommendation of no recovery made by AG witness Coppola, outlined in the People's Initial Brief at 52-53.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at page 79 of the Proposed Order should be stricken and replaced with the following language:

> <u>The Commission finds that because Ameren by its own admission has the same payment terms for gas delivered to customers and gas stored underground, the appropriate expense leads for the two types of gas should be identical. Thus, the Commission adopts the AG's proposal to use an accounts payable percentage of 10.58% for Ameren's materials and supplies for gas stored underground, entailing a value of $7.533 million for the related accounts payable, an adjustment of $2.965 million from Ameren's proposed rate base.</u>

VIII. Exception No. 8: Well-Related Maintenance Expense

The Proposed Order's Commission Analysis and Conclusion section on the issue of well-related maintenance expense, wherein Ameren is requesting recovery of $6.4 million for the

2016 test year, states that "[i]n reviewing AIC Ex. 22.10, the Commission finds support for the Company's proposed test year expense. This exhibit shows that the Company has detailed the list of activities planned for 2016 and explains the field, activity, estimated cost, and planned timetable for the activities." PO at 82. That section goes on to state that "[t]he record also shows that the additional activities planned for 2015 and 2016 are necessary to assess the conditions of the Company's storage wells and ensure the future integrity, reliability and safety of the assets." *Id.* Outside observers simply cannot have the same insight into a utility's internal operations as internal Company leaders would have; for this reason, the Commission must be very wary of simply accepting at face value the Company's statements of planned activities and asserted need for those activities. The Commission must consider whether the Company's attempt to establish reasonableness of a particular cost withstood other parties' attempts to test that contention during the duration of the case. "Requiring intervenors to establish unreasonableness is therefore no substitute for requiring proof of reasonableness." *People ex rel. Hartigan v. Illinois Commerce Comm'n*, 117 Ill.2d 120, 135 (1987).

For example, as the People noted in their Reply Brief at 40, AIC witness Colyer stated in his Rebuttal Testimony that the Company is initiating a program in 2015 of doing neutron and Vertilog logging on all of its wells over an eight-year period (AIC Ex. 22.0 2d REV. at 52), but he did not explain why eight years is the appropriate cycle rather than some other time frame. AIC Exhibit 22.10, a single-page document that the PO apparently relies on, contains terse descriptions[4] of the activities planned for 2016 but no explanation for the specific increase in activity level or dollar amount from the 2014 level of activity, around $3.1 million. AG Reply Br. at 40. A review of Mr. Colyer's discovery responses purporting to explain the over 100%

[4] No description for any spending item listed on Ameren Exhibit 22.10 is longer than 13 words.

increase in expense from 2014 to 2015[5] repeatedly references 2015 planned activities listed on AIC Exhibit 22.9 (another single-page document identical in form to AIC Exhibit 22.10), but makes no attempt to *justify* the specific *need* for those type, and that extent, of well maintenance activities. AIC Ex. 38.9 at 1, 3, 5, 9; AG Reply Br. at 40-41. Ameren's Exhibits 22.9, 22.10, and 38.9 are included together as **Appendix B** to this AG Brief on Exceptions.

As the People stated in their Reply Brief at 39, they do not dispute that increased well maintenance in the 2016 test year may be necessary compared to historic levels. However, there is a far cry between accepting the need for increased activity in principle and accepting any number that the Company chooses to write down. The Commission cannot simply accept a general assertion by a Company witness that every dollar amount shown on a one-page sheet is necessary, as a basis to grant the Company over $6 million of revenue in this expense category. For that reason, the Commission should adopt the expense recovery proposal made by AG witness Coppola, as advocated in the People's Initial Brief at 53-54.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at page 82 of the Proposed Order should be stricken and replaced with the following language:

> <u>The Commission adopts the AG's proposal to authorize recovery at the 2014 spending level, $3.1 million. Ameren has not supported the need for the sharp uptick in activity from 2014 to '15 – which will be sustained, according to projections, in the test year of 2016. Ameren bore a burden under Section 9-201(c) to tie the increase in activity to particular needs, rather than making general assertions that due to recent problems an increase in well maintenance is advisable. Ameren did not meet this burden.</u>

[5] As 2016 projected spending levels are roughly the same as 2015 levels, an inquiry into the justness and reasonableness of 2015 spending levels also serves to examine the appropriateness of projected 2016 spending.

IX. Exception No. 9: Rate Design in GDS-1 and GDS-2 Customer Classes

There is nothing economically efficient or equitable about a rate design that decouples rates *and* maintains a high, straight fixed variable customer charge for residential customers. Unfortunately, the rate design adopted in the Proposed Order does just that, applying a belt-and-suspenders approach to ensuring recovery of Ameren's set revenue requirement by approving *both* a decoupling rider *and* a straight fixed variable variation customer charge that recovers 70% of Ameren's revenues through the flat monthly customer charge. Aside from cost causation and revenue recovery principles, it is undisputed that high customer charges unfairly punish low-users of natural gas by requiring them to shoulder the lion's share of a rate increase while reducing their ability to lower their bills through conservation and energy efficiency. AG Ex. 3.0 at 18:376-384. Since 2008, when the Commission inexplicably approved a rate design that recovered 80% of revenues through the fixed monthly customer charge, Ameren's lowest usage customers have been bearing the brunt of customer class revenue recovery, with the Company's highest users being subsidized by the lowest users of natural gas.

In addition, the Proposed Order's adoption of a 70/30 rate design actually *increases* the customer charge for Rate Design 2 customers, thereby moving away from the Commission's goal of lowering the percentage of revenues recovered through the customer charges for these ratepayers. That is an unreasonable result in light of the proposed order's conclusion that moving away from high customer charges is appropriate[6], and is contrary to the public policy goals clearly articulated in Section 8-104 of the Act, which call for reducing the amount of natural gas delivered to utility customers and the cost of utility bills that customers pay through energy efficiency. 220 ILCS 5/8-104(a).

[6] PO at 109.

As discussed below, the Commission's final order should repair these flaws and adopt the AG-proposed alternative rate design, which unwinds the inequity of straight fixed variable rates first imposed on Ameren's residential customers in 2008[7], by lowering the amount of revenues recovered through the fixed charge beyond the minimal 70/30 correction the Proposed Order recommends.

A. Approving Both A Decoupling Rider and a 70/30 Residential Rate Design Is Unnecessary, Economically Inefficient and Inconsistent with Recent Commission Rate Design Orders.

Under the rate design approved in the Proposed Order, Ameren's ability to recover its revenue requirement is guaranteed *and then some*. As noted above, the Proposed Order implements Ameren's request for a revenue decoupling rider, which triggers an annual adjustment for the residential and small commercial classes based on each class's total gas usage during the year to ensure the recovery of the Commission-approved revenue requirement. In addition, it authorizes that 70% of revenues be recovered through the fixed customer charge, despite the fact that Ameren's own cost study shows customer-related costs of only 54%. AG Ex. 3.0 at 20:429-445; AG Ex. 3.05.

The Proposed Order's recommended rate design treatment is inconsistent with several recent rate design decisions, in which the Commission has soundly rejected the notion that high customer charges are an appropriate means to achieving a utility's recovery of its costs –

[7] Ameren's current rate design was established by the Commission in 2008 in response to Ameren's request at the time for a decoupling rider. The Commission in Docket Nos. 07-0588 rejected the rider, but instead randomly implemented an alternative type of revenue decoupling rate design that permits Ameren to collect an astonishing 80% of revenues through the customer charge, compared to then-existing rates that collected approximately 43% of revenues through the customer charge. The remaining 20% of costs are collected through a volume-based per therm charge. ICC Docket No. 07-0588, et al. (cons.), -- *Ameren Illinois Gas Company – Proposed Increase in Gas Service Rates,* Order of September 24, 2008 at 215, 236-237 ("2008 Rate Order"). As the AG explains, the Commission's decision allowing Ameren to recover 80% of its revenues through its customer charges was random, as no party had proposed such a dramatic increase to the fixed charges.

particularly when a company's revenue requirement is guaranteed, either through formula rates or revenue decoupling. Commission adoption of the Ameren/Staff 70/30 rate design proposal, as suggested in the Proposed Order, would contradict that trend.

For example, in the most recent Commonwealth Edison Company rate design proceeding, Docket No. 13-0387, the Commission rolled back the amount of revenues recovered through the customer charge for ComEd, noting in particular that because there is little risk of non-recovery of costs for ComEd because of its adoption of formula rates, a lowering of the percentage of revenues recovered through the customer charge was justified. There, the Commission adopted AG witness Rubin's proposed rate design, which removed demand-related cost recovery from the customer charge – again, precisely the rate design the AG proposes in this docket.[8]

In Docket No. 13-0476, Ameren's most recent electric rate design case, the Commission rejected Ameren's request to increase fixed costs recovery to 50%. On Rehearing, the Commission specifically noted that "there are policy reasons for adopting a rate design with greater emphasis on traditional ratemaking principles like cost causation." Docket No. 13-0476, *Ameren Illinois Co*. – Order on Rehearing of September 30, 2014, at 41. The Commission noted further: "This decision is supported by the arguments made by the AG in this case including more equitable cost sharing within customer classes, rates that are consistent with the General Assembly's intent to promote energy conservation, and the fact that the Company's financial risk has been reduced as a result of its participation in EIMA[9]." The Commission made clear that it "supports a rate design which encourages residential customers to reduce energy usage and

[8] ICC Docket No. 13-0387, Order of December 18, 2013 at 74-75.

[9] EIMA stands for the Energy Infrastructure Modernization Act, 220 ILCS 5/16-108.5.

increase energy efficiency" and directed Ameren to maintain the current percentage of fixed cost recovery through fixed charges – 44.8%. *Id.*

Recent gas utility rate design decisions in the Peoples Gas Light & Coke Company/North Shore Gas Company cases also follow this trend. For example, in ICC Docket No. 14-0224/0225, the Commission, consistent with AG witness Rubin's proposal in this docket, removed demand cost recovery from the fixed monthly customer charge and transferred those revenues to the per therm charges.[10] This is precisely the recommendation of Mr. Rubin in this case. AG Ex. 6.0 REV at 15:313-316. The same rationale applies in this case, given AIC's uncontested request for a decoupling rider. Like the guarantee of cost recovery that ComEd and Ameren Electric enjoy through the annual formula rate process, Ameren will face zero risk of recovering its Commission-authorized revenue requirement given the approval of a decoupling rider in this docket.

Ironically, the Proposed Order here agrees with the AG's argument that high customer charges are an unnecessary approach to addressing a utility's revenue stability:

> The Commission agrees with the AG's general premise that it is inappropriate to pair a revenue decoupling mechanism such as Rider VBA, with high fixed customer charges, because both address the issue of revenue stability.

PO at 109.

The Proposed Order likewise concurs with and adopts the OAG's point that high fixed charges are contrary to the General Assembly's clear policy directive to increase ratepayers' opportunities to engage in energy efficiency, noting that "high fixed customer charges remove the price signal from increased gas usage... ." PO at 109. In addition, the Proposed Order

[10] Peoples Gas Light & Coke Co./North Shore Gas Co. – Proposed Increase in Delivery Service Rates, Order of January 21, 2015 at 202.

concurs with the OAG that "lowering the customer charge would also move rates toward cost based rates, which the Commission generally supports." *Id.*

Nevertheless, the Proposed Order stops short at fixing this inequity. It maintains the high, SFV customer charge -- reducing it only slightly from 80% to 70% of revenue recovered through fixed charges -- thereby ensuring that the lowest usage customers subsidize Ameren's highest users of natural gas. Worse yet, because Ameren proposes to consolidate rate zones 1 through 3, it has the effect of significantly increasing the customer charge of Rate Zone 2 customers from $19.97 to $21.01, even though technically the amount of revenues collected through the customer charge is supposed to be dropping. It is unreasonable and inequitable to increase the customer charge in for these Rate Zone 2 customers, as discussed further below.

B. The Inequities of the Current Rate Design Require A Greater Movement Toward Lowering the Customer Charge Than the Staff/Ameren Proposed 70/30 Ratio.

While concurring with the AG's policy arguments for lowering Ameren's current, inequitable customer charge, the Proposed Order rejects the AG-proposed rate design based on a concern that adoption of the AG-proposed rate design, which would reduce the amount of revenues recovered from the fixed customer charge from 80% to 53%, would be "problematic." PO at 109. It makes this conclusion, however, in a vacuum, without any specific assessment of the rate impacts of AG-witness Rubin's proposed rate design, nor within the context of the extreme inequities that the existing rate design has created, with the lowest users of natural gas subsidizing the highest users.

The fact is, currently, low-usage customers are paying in significant excess of their cost of service and are subsidizing highest usage customers. *See* AG Ex. 3.0 at 9-11:190-233; AG Ex. 3.04. *That is the inequity that must be addressed in this rate design order.* As the AG noted in its briefs in this case, Ameren's current rate design was established by the Commission in 2008 in response to Ameren's request at the time for a decoupling rider. The Commission in Docket Nos. 07-0588 rejected the rider, but instead randomly implemented an alternative type of revenue decoupling rate design that permits Ameren to collect an astonishing 80% of revenues through the customer charge, compared to then-existing rates that collected approximately 43% of revenues through the customer charge. The remaining 20% of costs are collected through a volume-based per therm charge. ICC Docket No. 07-0588, et al. (cons.), -- *Ameren Illinois Gas Company – Proposed Increase in Gas Service Rates,* Order of September 24, 2008 at 215, 236-237 ("2008 Rate Order"). The Commission's decision allowing Ameren to recover 80% of its revenues through its customer charges was random, as no party had proposed such a dramatic increase to the fixed charges.

As revealed in AG Cross Exhibits 9-13, the inequities and cross-subsidies that were created by these inordinately high customer charges were and remain profound. For example, for Rate Zone 3 (formerly known as the Illinois Power service territory), the 2008 drastic shift in cost recovery to the customer charge resulted in a 43.8% average annual increase in delivery service rates for the lowest 20% of customers based on annual usage, while the highest 20% of customers based on annual usage received an average annual increases less than half of their low-use counterparts -- 21.2%. For Rate Zone 1 (formerly known as the CIPS and CIPS Metro East territories), the switch from 43% to 80% of revenues recovered through the customer charge resulted in average annual increases of 26.5% and 21% for customers in the lower 20% usage category. High-use customers, in sharp contrast, received rate increases that were many multiples lower – 4.3% and 7.3%, respectively. These inequitable results are shown in the table below.

2008 Rate Order Bill Impacts

Rate Zone	% Increase Lowest 20% Usage	% Increase Highest 20% Usage
1 (CIPS)	26.5%	4.3%
1 (CIPS -Metro East)	21%	7.3%
3 (Illinois Power)	43.8%	21.2%

Source: AG Cross Ex. 13.

The inequitable impacts of the approved 80/20 SFV rate design are exacerbated when examined on a monthly basis. When the 2007 case was filed, Ameren's residential rates in Rate Zone 2 (formerly known as CILCO service territory), for example, consisted of a customer charge of $11.80 and distribution charges of 18.750¢ per therm (for the first 90 therms per month) and 12.000¢ per therm for usage above 90 therms in a month. AG Ex. 3.0 at 11:245-250. The effect of the Commission's order was to increase the customer charge to $16.42 per month (a 39% increase) while decreasing the distribution charges to 6.718¢ and 4.300¢ for the two consumption blocks. As a consequence, a higher-use customer (300 therms in a month) saw his distribution bill decline from $53.88 per month to $31.50 per month (a 41% *decrease*), while a lower-use customer (20 therms in a month) had her bill increase from $15.55 per month to $17.76 per month (a 14% increase). *Id.* at 11:250-256.

In fact, no party to the case had proposed such a radical rate design and there was no analysis in the record of that case that evaluated the effects on a range of customers' bills of adopting such an extreme proposal. The 2008 Rate Order makes clear, too, that the Commission considered this rate design a type of test or pilot program (similar to the decoupling pilot program involving Rider VBA for Peoples Gas that was in effect at that time), and invited Ameren to propose alternatives in its next case. The Order stated:

> In order to gain sufficient experience to evaluate this method of recovering fixed delivery costs, the Commission anticipates that the approved ratio of fixed costs recovered from the customer charge and the volumetric rate must remain in place until at least December 31, 2012. AIU may propose revisions to this ratio in its next rate case or rate design case thereafter. By this time the Commission should also have the benefit of Peoples' and North Shore's experience with Rider VBA.

See 2008 Rate Order at 238.

Much has been learned since 2008 about the inequities of an 80/20 SFV rate design, as the Commission's recent rate design orders reveal. The record evidence in this docket makes clear several facts:

> (1) Ameren's own COSS supports, at a maximum, shows that 54% of costs are customer-related – not the 70% or 80% that Ameren proffers in this case. As such, no more than 54% of revenues should be recovered through the customer charge.
>
> (2) Low usage customers end up paying a greater percentage of any increase in delivery service charges as compared to higher usage customers, both on average annually and particularly during the winter time, when overall customer usage is highest. *See* AG Cross Ex. 13.
>
> (3) Higher customer charges results in less ability for customers to control the size of their bills.
>
> (4) Higher customer charges reduce customers' ability to engage in cost-effective energy efficiency. (If less of your bill is usage-related, the incentive and payback in energy efficiency investments is reduced.)

Ameren's insistence on maintaining high customer charges is rooted in its contention that the distribution system costs incurred in serving small use customer groups are fixed and do not change with changes in customer therm usage. AIC Ex. 8.0 at 4:77-79 (Jones Direct). But the Company's own ECOSS belies this notion, and the Commission has in recent years in both electric and gas orders soundly rejected that supposition. These facts point to the need for the Commission to approach its rate design decision with a clean slate – without giving the existing 80/20 customer charge ratio any type of legitimacy as a benchmark or starting point for reasonableness.

In an effort to inform the Commission of the impacts of the various proposals, the AG has reviewed the rate impacts of (1) the 70/30 rate design adopted in the PO; (2) the AG-proposed 53/46 rate design; and (3) an alternative rate design that would set all three zones at the current Rate Zone 2 customer charge of $19.97, thereby minimizing the extreme rate impact on Rate Zone 2 customers triggered by the 70/30 rate design. This alternative rate design percentage would recover 65.5% of revenues through the fixed customer charge, based on the revenue requirement approved in the Proposed Order. The results are as follows, as compared with the current $22.31 customer charge in rate zones 1 and 3, and $19.97 customer charge in Rate Zone 2:

<u>70/30 Rate Design</u>

- A customer charge of $21.36 for all rate zones, with per therm charges of 15 cents;
- For rate zones 1 and 3, monthly usage of 100 therms (higher than the average annual 910 therms[11]) would produce a 15.1% increase in delivery service rates and a total bill (supply included) increase of 5.8%;
- For rate zone 2, monthly usage of 100 therms would produce a 31.6% increase in delivery service rates and a total bill (supply included) increase of 11.1%.
- For rate zones 1 and 3, monthly usage of 40 therms (lower than the average annual 910 therms[12]) would produce a 5.2% increase in delivery service rates and a total bill (supply included) increase of 2.9%;

[11] AG Ex. 3.01, p. 2 of 2.

[12] AG Ex. 3.01, p. 2 of 2.

- For rate zone 2, monthly usage of 40 therms would produce a 18.8% increase in delivery service rates and a total bill (supply included) increase of 9.9%.

<u>53/47 Rate Design</u>

- A customer charge of $16.44 for all rate zones, with per therm charges of 23 cents;
- For rate zones 1 and 3, monthly usage of 100 therms (higher than the average annual 910 therms[13]) would produce a 25.1% increase in delivery service rates and a total bill (supply included) increase of 9.6%;
- For rate zone 2, monthly usage of 100 therms would produce a 43.1% increase in delivery service rates and a total bill (supply included) increase of 15.1%;
- For rate zones 1 and 3, monthly usage of 40 therms (lower than the average annual 910 therms[14]) would produce a rate decrease of -1.3% in delivery service rates and a total bill (supply included) increase of -0.7%;
- For rate zone 2, monthly usage of 40 therms would produce an 11.5% increase in delivery service rates and a total bill (supply included) increase of 6.1%.

<u>65/35 Rate Design</u>

- A customer charge of $19.97 for all rate zones, with per therm charges of 17 cents;
- For rate zones 1 and 3, monthly usage of 100 therms (higher than the average annual 910 therms[15]) would produce a 17.9% increase in delivery service rates and a total bill (supply included) increase of 6.8%;
- For rate zone 2, monthly usage of 100 therms would produce a 34.9% increase in delivery service rates and a total bill (supply included) increase of 12.2%;
- For rate zones 1 and 3, monthly usage of 40 therms (lower than the average annual 910 therms[16]) would produce a 3.3% increase in delivery service rates and a total bill (supply included) increase of 1.9%;
- For rate zone 2, monthly usage of 40 therms would produce a 16.7% increase in delivery service rates and a total bill (supply included) increase of 8.8%.

See **Appendix C** to this Brief.

Several facts become clear upon review of this bill impact data. Low usage (in this example, 40 therms per month) customers fair best under the AG-proposed 53/47 rate design, consistent with what the Commission knows about high customer charges triggering cross-

[13] AG Ex. 3.01, p. 2 of 2.

[14] AG Ex. 3.01, p. 2 of 2.

[15] AG Ex. 3.01, p. 2 of 2.

[16] AG Ex. 3.01, p. 2 of 2.

subsidies from low to high users. This rate design successfully unwinds the gross inequities of Ameren's lowest usage customers subsidizing its highest usage customers. On the other hand, the 70/30 rate design creates significant bill impacts for these same customers.

Higher usage customers (in this example, defined as 100 therms per month) will experience the highest levels of increases under the AG-proposed rate design, as compared with the 70/30 proposal. This is not unexpected, given the existing cross-subsidies Mr. Rubin's testimony exposes in the existing 80/20 rate design. The proposed 53/46 rate design most accurately tracks customer-relate costs and recovers demand-related costs, appropriately, through per therm charges. In this sense, it corrects the existing 80/20 inequities. It should be adopted by the Commission.

That being said, given the above-mentioned rate design impact figures for those on the margins, the OAG offers as a reasonable compromise for the Final Order, the adoption of the 65/35 rate design, which would (1) ensure that Rate Zone 2 customers are not unfairly penalized and (2) lessen the impact of a rate increase on low users in all rate zones as compared to the 70/30 rate design. This rate design, too, would continue the Commission's appropriate march toward ensuring that customer charges only reflect the cost of serving the customer-related costs of the system, such as connecting to the network, billing and customer service functions, consistent with principles of gradualism. In addition, it aligns with the Commission's findings in the recently adopted Peoples Gas rate design decision, which set the customer charge to recover 63% of revenues through the customer charge. Proposed language for both of these alternatives is provided below.

Proposed Language:

For the reasons stated above, the Commission Analysis and Conclusion section at pages 108-109 of the Proposed Order should be modified as follows:

> At issue here is what percentage of AIC's revenues should be collected through fixed customer charges for residential and small non-residential customers. Currently, AIC recovers 80% of its revenue through its fixed customer charges and 20% through a volume-based per therm charge. Staff proposes, and AIC agrees, to recover 70% of revenues through fixed charges. AG witness Rubin proposes that AIC recover even less revenue through fixed charges – 54%.
>
> Collecting a high percentage of revenue through fixed charges helps to insure that the Company recovers it approved revenue requirement, regardless of the amount of gas sold. This issue is complicated by AIC's uncontested proposal to apply its Rider VBA to its per therm charges. Rider VBA also serves to insure, through an annual reconciliation, that the revenue collected from customers through per therm charges matches the revenue approved by the Commission in this proceeding. Similar to fixed charges, Rider VBA decouples the revenue collected from the amount of gas sold. The key difference is that, on an individual basis, customers are able to lower the portion of their bill subject to Rider VBA by reducing their gas usage. The Commission agrees with the AG's general premise that it is inappropriate to pair a revenue decoupling mechanism such as Rider VBA, with high fixed customer charges, because both address the issue of revenue stability.
>
> The Commission also finds that, because high fixed customer charges remove the price signal from increased gas usage, the appropriate direction for this rate design split to move is for fewer costs to be recovered through fixed rates. The record indicates that lowering the customer charge would also move rates toward cost based rates, which the Commission generally supports. ~~Nevertheless, the Commission finds the impact on large customer bills under the AG's proposal to be problematic, especially when coupled with the revenue increase approved herein. Thus, the Commission agrees with Staff's proposal to reduce to 70% the percentage of revenues collected through fixed charges and it is adopted.~~

ECOSS-based rate design, too, supports a rate design based on cost causation. In the docket, the record evidence shows that higher-use customers impose proportionately larger costs on the AIC delivery system. *See*, AG Ex. 6.0 REV at 15-16; AG Ex. 3.0 at 5-7, 9-11; AG Ex. 3.03; AG IB at 67-69. The evidence also shows that the Commission's 80/20 SFV pilot rate that has been in place since 2008 triggered (and continues to trigger) inequitable increases on AIC's lowest-use customers. *See* AG IB at 61-63. Commission precedent supports a rate that removes demand cost recovery from the customer charge, as noted above. But a shift in rate design from an 80/20 to a 70/30 SFV design, as Ameren and Staff propose, still assumes that AIC's lowest-users of natural gas who the evidence in this record shows are subsidizing Ameren's highest users, should continue to do so, and that costs that the Company has identified as being driven by demand should be recovered through the customer charge. That conclusion is not supported by the evidence in the record, recent Commission precedent or Illinois law.

Worse yet, it assumes those flawed policies should remain in place, *indefinitely*, until a time in the future when Ameren decides to file a new rate case. Moreover, the evidence shows that Ameren does not need such high fixed charge cost recovery. The Commission has specifically recognized that a Rider VBA decoupling mechanism and high fixed charges are redundant ways to address the issue of revenue stability. In an August 30, 2013 report to the General Assembly entitled, *Report to the Illinois General Assembly Concerning Coordination Between Gas and Electric Utility Energy Efficiency Programs and Spending Limits for Gas Utility Energy Efficiency Programs* ("ICC Report"), the Commission stated that because of Rider VBA, "the Commission can provide a mechanism for revenue stability that lowers the monthly customer charges and increases the volumetric charges. Such a change can decrease energy use by providing a greater price signal" to customers. ICC Report, p. 23. This reasoning is applicable to Ameren in this instance. Ameren enjoys unquestionable revenue stability as a result of several rider mechanisms that guarantee revenue streams between rate cases. For example, Ameren recovers a return of and on new incremental infrastructure investment through its Rider QIP. Also, the Company receives a steady stream of revenues through its uncollectibles rider, Rider Gas Uncollectibles Adjustment ("Rider GUA"), and direct recovery of its energy efficiency program costs through Rider Gas Energy Efficiency Cost Recovery Adjustment

(“Rider GER”), among other riders.[17] With the Commission’s approval of Ameren’s proposed Rider VBA decoupling mechanism, the Company’s ability to recover its Commission-approved revenue requirement is guaranteed. Coupled with its ability to file rate cases at any time under Section 9-201 of the Act, Ameren’s financial risk is virtually non-existent.

Other policy implications must be considered by the Commission as it examines the customer charge issue in this case. Specifically, the Illinois General Assembly, in its passage of Section 8-104 of the Public Utilities Act, made clear its interest in reducing the amount of natural gas delivered to utility customers and reducing the cost of utility bills that customers pay. To that end, Section 8-104(c) requires specific reductions in the use of natural gas on an annual basis. As noted by AG witness Rubin, high fixed charges undermine this public policy objective by reducing the amount of the customer bill that can be reduced through conservation and energy efficiency. AG Ex. 3.0 at 18:376-384. Giving the Company's customers more control over their natural gas bills by reducing the customer charge gives customers an important incentive to reduce energy usage.

The Commission, too, has recognized that moving away from high customer charges could help the State meet its energy efficiency goals, both in its recent report to the General Assembly on energy efficiency and in recent Commission orders in Docket Nos. 13-0387, 13-0476 and 14-0224/0225 (cons.). In the aforementioned ICC Report, the Commission recognized that reducing the customer charge while increasing variable charges could reduce overall natural gas usage and assist in the achievement of statutory natural gas use reduction goals in a cost-effective manner. *See* ICC Report at 24. The Commission agreed that enabling customers to have more control over their natural gas bills serves the statutory goal of reducing natural gas consumption in a cost-effective manner.

Because Ameren proposes to consolidate rate zones 1 through 3, a 70/30 rate design has the effect of significantly increasing the customer charge of Rate Zone 2 customers from $19.97 to $21.01, while customers in rate zones 1 through 3 would experience decreases in their customer charge. It is unreasonable and inequitable to increase the customer charge for these Rate Zone 2 customers.

[17] *See* https://www.ameren.com/-/media/illinois-site/Files/Rates/AIgs1ottoc.pdf.

AG witness Rubin's rate design proposal, which recovers 54% of AIC gas delivery service costs through the customer charge and 46% through usage charges, reflects true cost causation principles by excluding demand-related costs from the customer charge. It is consistent with recent ICC decisions that recognize that (1) utility delivery service costs are *not* fixed; (2) the flat, monthly customer charge is not the place to recover demand-related costs; and (3) assigning demand based costs to volumetric charges is consistent with Illinois public policy goals that favor energy efficiency, least cost utility service and the avoidance of cross subsidies. Just as importantly, it corrects the rate shock that Ameren's low usage customers endured and the inequitable cross-subsidization of high users by low users of natural gas that resulted from the 2008 approval of the 80/20 SFV rate design pilot. AG Ex. 3.0 at 11:243-262. It is hereby adopted.

Alternative 2 – 65/35 Rate Design

At issue here is what percentage of AIC's revenues should be collected through fixed customer charges for residential and small non-residential customers. Currently, AIC recovers 80% of its revenue through its fixed customer charges and 20% through a volume-based per therm charge. Staff proposes, and AIC agrees, to recover 70% of revenues through fixed charges. AG witness Rubin proposes that AIC recover even less revenue through fixed charges – 54%.

Collecting a high percentage of revenue through fixed charges helps to insure that the Company recovers it approved revenue requirement, regardless of the amount of gas sold. This issue is complicated by AIC's uncontested proposal to apply its Rider VBA to its per therm charges. Rider VBA also serves to insure, through an annual reconciliation, that the revenue collected from customers through per therm charges matches the revenue approved by the Commission in this proceeding. Similar to fixed charges, Rider VBA decouples the revenue collected from the amount of gas sold. The key difference is that, on an individual basis, customers are able to lower the portion of their bill subject to Rider VBA by reducing their gas usage. The Commission agrees with the AG's general premise that it is inappropriate to pair a revenue decoupling mechanism such as Rider VBA, with high fixed customer charges, because both address the issue of revenue stability.

The Commission also finds that, because high fixed customer charges remove the price signal from increased gas usage, the appropriate direction for this rate design split to move is for less costs to be recovered through fixed rates. The record indicates that lowering the customer charge would also move rates toward cost based rates, which the Commission generally supports. ~~Nevertheless, the Commission finds the impact on large customer bills under the AG's proposal to be problematic, especially when coupled with the revenue increase approved herein. Thus, the Commission agrees with Staff's proposal to reduce to 70% the percentage of revenues collected through fixed charges and it is adopted.~~

ECOSS-based rate design, too, supports a rate design based on cost causation. In the docket, the record evidence shows that higher-use customers impose proportionately larger costs on the AIC delivery system. *See*, AG Ex. 6.0 REV at 15-16; AG Ex. 3.0 at 5-7, 9-11; AG Ex. 3.03; AG IB at 67-69. The evidence also shows that the Commission's 80/20 SFV pilot rate that has been in place since 2008 triggered (and continues to trigger) inequitable increases on AIC's lowest-use customers. *See* AG IB at 61-63. Commission precedent supports a rate that removes demand cost recovery from the customer charge, as noted above. But a shift in rate design from an 80/20 to a 70/30 SFV design, as Ameren and Staff propose, still assumes that AIC's lowest-users of natural gas who the evidence in this record shows are subsidizing Ameren's highest users, should continue to do so, and that costs that the Company has identified as being driven by demand should be recovered through the customer charge. That conclusion is not supported by the evidence in the record, recent Commission precedent or Illinois law.

Worse yet, it assumes those flawed policies should remain in place, *indefinitely*, until a time in the future when Ameren decides to file a new rate case. Moreover, the evidence shows that Ameren does not need such high fixed charge cost recovery. The Commission has specifically recognized that a Rider VBA decoupling mechanism and high fixed charges are redundant ways to address the issue of revenue stability. In an August 30, 2013 report to the General Assembly entitled, *Report to the Illinois General Assembly Concerning Coordination Between Gas and Electric Utility Energy Efficiency Programs and Spending Limits for Gas Utility Energy Efficiency Programs* ("ICC Report"), the Commission stated that because of Rider VBA, "the Commission can provide a mechanism for revenue stability that lowers the monthly customer charges and increases the volumetric charges.

Such a change can decrease energy use by providing a greater price signal" to customers. ICC Report, p. 23. This reasoning is applicable to Ameren in this instance. Ameren enjoys unquestionable revenue stability as a result of several rider mechanisms that guarantee revenue streams between rate cases. For example, Ameren recovers a return of and on new incremental infrastructure investment through its Rider QIP. Also, the Company receives a steady stream of revenues through its uncollectibles rider, Rider Gas Uncollectibles Adjustment ("Rider GUA"), and direct recovery of its energy efficiency program costs through Rider Gas Energy Efficiency Cost Recovery Adjustment ("Rider GER"), among other riders.[18] With the Commission's approval of Ameren's proposed Rider VBA decoupling mechanism, the Company's ability to recover its Commission-approved revenue requirement is guaranteed. Coupled with its ability to file rate cases at any time under Section 9-201 of the Act, Ameren's financial risk is virtually non-existent.

Other policy implications must be considered by the Commission as it examines the customer charge issue in this case. Specifically, the Illinois General Assembly, in its passage of Section 8-104 of the Public Utilities Act, made clear its interest in reducing the amount of natural gas delivered to utility customers and reducing the cost of utility bills that customers pay. To that end, Section 8-104(c) requires specific reductions in the use of natural gas on an annual basis. As noted by AG witness Rubin, high fixed charges undermine this public policy objective by reducing the amount of the customer bill that can be reduced through conservation and energy efficiency. AG Ex. 3.0 at 18:376-384. Giving the Company's customers more control over their natural gas bills by reducing the customer charge gives customers an important incentive to reduce energy usage.

The Commission, too, has recognized that moving away from high customer charges could help the State meet its energy efficiency goals, both in its recent report to the General Assembly on energy efficiency and in recent Commission orders in Docket Nos. 13-0387, 13-0476 and 14-0224/0225 (cons.). In the aforementioned ICC Report, the Commission recognized that reducing the customer charge while increasing variable charges could reduce overall natural gas usage and assist in the achievement of statutory natural gas use reduction goals in a cost-effective manner. *See* ICC Report at 24. The Commission agreed that enabling customers to have more control over their natural gas

[18] *See* https://www.ameren.com/-/media/illinois-site/Files/Rates/AIgs1ottoc.pdf.

bills serves the statutory goal of reducing natural gas consumption in a cost-effective manner.

Because Ameren proposes to consolidate rate zones 1 through 3, a 70/30 rate design has the effect of significantly increasing the customer charge of Rate Zone 2 customers from $19.97 to $21.01, while customers in rate zones 1 through 3 would experience decreases in their customer charge. It is unreasonable and inequitable to increase the customer charge for these Rate Zone 2 customers.

AG witness Rubin's rate design proposal, which recovers 54% of AIC gas delivery service costs through the customer charge and 46% through usage charges, reflects true cost causation principles by excluding demand-related costs from the customer charge. It is consistent with recent ICC decisions that recognize that (1) utility delivery service costs are *not* fixed; (2) the flat, monthly customer charge is not the place to recover demand-related costs; and (3) assigning demand based costs to volumetric charges is consistent with Illinois public policy goals that favor energy efficiency, least cost utility service and the avoidance of cross subsidies. Just as importantly, it corrects the rate shock that Ameren's low usage customers endured and the inequitable cross-subsidization of high users by low users of natural gas that resulted from the 2008 approval of the 80/20 SFV rate design pilot. AG Ex. 3.0 at 11:243-262. However, in the interest of gradualism and preventing undue rate impacts on Rate Zone 2 customers, the Commission adopts a rate design that recovers 65.5% of revenues through the customer charge.

IX. Clean-Up Edits/Missing Data

The Proposed Order is less than transparent as to the amount of increases Ameren customers in rate zones 1 through 3 will experience as a result of the Commission's Final Order in this docket. At no place in the Proposed Order is there any indication of the actual increase being granted for each rate zone. Likewise, there is no reference to the rate of return and return on equity being awarded to the Company the Commission findings at the end of the order. Finally, there is no indication of the percentage increase in base rates that is triggered in each of the rate zones by the order's findings. All of that information is typically found in Commission rate orders. In this instance, a reader has to scan the appendices to the Proposed Order, which consist of schedules listing adjustment amounts and revenue requirement numbers, to find this information.

That lack of transparency should be corrected in the Final Order. Specifically, the findings and conclusions should list the specific base rate increase and percentage change in base rate revenues for each rate zone, along with a total company rate increase amount. Actual ROR and ROE figures should be spelled out, too, consistent with other rate orders of the Commission. The members of the public and Ameren's customers should not be forced to scan and translate appendices to understand exactly what level of rate increase is being approved in this case.

X. Conclusion

For the reasons stated herein, the People of the State of Illinois respectfully request that the Proposed Order be modified and that the Commission enter a final order consistent with the arguments included in this Brief on Exceptions.

Respectfully submitted,

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